

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hannah Omolade	Team: Team # 2	CCRB Case #: 201116035	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/13/2011 7:20 PM	Location of Incident: Syringa Place and Beech Avenue	Precinct: 109	18 Mo. SOL 6/13/2013	EO SOL 6/13/2013	
Date/Time CV Reported Wed, 12/14/2011 5:55 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 12/14/2011 5:55 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Wing Har	08243	940234	109 PCT
2. POM Kevin Yam	07162	942728	109 PCT
3. POM Jason Ragoo	01854	939268	109 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Wing Har	Abuse: PO Wing Har questioned § 87(2)(b)	
B.POM Kevin Yam	Abuse: PO Kevin Yam refused to provide his shield number to § 87(2)(b)	
C.POM Jason Ragoo	Abuse: PO Jason Ragoo refused to provide his shield number to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

## Case Summary

§ 87(2)(b) contacted the CCRB via telephone on December 14, 2011, to file a complaint (encl. 6). On December 13, 2011, at approximately 7:20 p.m., § 87(2)(b) was walking to pick up his car, when PO Wing Har, PO Jason Ragoo, and PO Kevin Yam, approached him on Beech Avenue in Queens. The following allegations resulted:

- **Allegation A- Abuse of Authority: PO Wing Har questioned § 87(2)(b)**  
§ 87(2)(g)  
§ 87(2)(g)
- **Allegation B- Abuse of Authority: PO Kevin Yam refused to provide his shield number to § 87(2)(b)**
- **Allegation C- Abuse of Authority: PO Jason Ragoo refused to provide his shield number to § 87(2)(b)**  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)
- § 87(4-b), § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)
- § 87(4-b), § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

On December 15, 2011, § 87(2)(b) accepted mediation. On February 2, 2012, upon officer identification this case was sent to mediation. On May, 21, 2012, the officers rejected mediation and the case was returned for investigation.

## Results of Investigation

### Civilian Statements:

#### Complainant/Victim: § 87(2)(b)

- § 87(2)(b)  
§ 87(2)(b)
- § 87(2)(b)  
§ 87(2)(b)

### CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on June 14, 2012 (encl. 7A-E). § 87(2)(b) also provided a telephone statement on December 15, 2011 (encl. 7A). § 87(2)(g)

On December 13, 2011, at approximately 7:20 p.m., § 87(2)(b) was walking from § 87(2)(b), in Queens, towards his vehicle, when he was approached by three uniformed officers on Beech Avenue § 87(2)(b) said he was approached on Cherry Avenue and Parsons Boulevard in his telephone statement). All three officers exited a patrol van and approached § 87(2)(b) immediately. PO Wing Har, identified via investigation, asked § 87(2)(b)

what he was doing there and where he was coming from § 87(2)(b) did not mention that PO Har asked about what he was doing and where he was going in his telephone statement). § 87(2)(b) was also asked to take his hands out of his pocket for the officers' safety § 87(2)(b) did not say this in his official statement). § 87(2)(b) could not recall which officer asked him to remove his hands from his pockets. However, the same officer explained to § 87(2)(b) that an individual stole a couple of vehicles in the area and that he was a suspect. § 87(2)(b) told the officers that he was on his way to his vehicle.

PO Har, who § 87(2)(b) described as Asian, 5'7", muscular build, 25 to 30 years old with black hair, asked § 87(2)(b) for his ID, which he provided. PO Har wrote § 87(2)(b)'s information down. § 87(2)(b) told PO Har that it was against the law for him to write his information down, and asked for his ID back. § 87(2)(b) reached for his ID, which was lodged in PO Har's memo book. PO Jason Ragoo, an Indian officer, 5'7", muscular build, 25 to 30 years old with black hair and identified via investigation, grabbed § 87(2)(b)'s arm. § 87(2)(b) then pushed PO Ragoo's arm away. PO Ragoo told § 87(2)(b) that he assaulted a police officer, which he denied. § 87(2)(b) was given his ID back.

§ 87(2)(b) told the officers that he was going to file a complaint and then asked all three officers for their shield numbers. PO Har and PO Kevin Yam, identified via investigation, said that they were not going to give § 87(2)(b) their shield numbers. Besides refusing to provide his shield number, PO Yam never said anything to § 87(2)(b). PO Har told § 87(2)(b) to just take his shield number. § 87(2)(b) touched PO Har's badge to see it properly and PO Har asked § 87(2)(b) not to touch his badge. § 87(2)(b) wrote PO Har's shield number and asked "what about the rest of these guys". PO Ragoo told § 87(2)(b) to leave the area and go about his business, because the situation could have been worse. § 87(2)(b) then left. There were no witnesses in the area.

### **NYPD Statements:**

#### **Subject Officer: PO WING HAR**

- § 87(2)(b) -old Asian male, 5'7", 195 pounds, with black hair and brown eyes.
- He was assigned to conditions 9 with PO Kevin Yam and PO Jason Ragoo. He worked from 5:30 p.m., until 2:05 a.m. the following day. All three officers were in uniform and drove marked van # 5997.

#### **Memo Book**

At 7:15 p.m., one stop was made on Syringa Place and Beech Avenue, in Queens. At 7:18 p.m., a stop and frisk report was prepared (encl. 10A-D).

#### **CCRB Statement:**

PO Har was interviewed at the CCRB on August 29, 2012 (encl.12A-C). On December 13, 2011, at approximately 7:20 p.m., PO Har was driving on Beech Avenue, in Queens, in a marked police van with PO Yam, and PO Ragoo. PO Ragoo was the operator of the vehicle, PO Yam was in the front passenger seat and PO Har was in the rear passenger seat. PO Har first observed § 87(2)(b) casing a construction site that was boarded up with plywood for approximately thirty seconds to one minute. § 87(2)(b) looked through a gap in the boarded area, and made furtive movements described as shifting his body and head from side to side, and placing his hands in and out of his jacket pockets. PO Har agreed that § 87(2)(b)'s body movements may have been a result of the cold weather. § 87(2)(b) never placed his hands on the boarded area. PO Har was the only officer who observed § 87(2)(b) do this. PO Har informed PO Yam and PO Ragoo what he observed and told them to make a U-turn. The officers made a U-turn and § 87(2)(b) observed

them, and then proceeded to walk off quickly. § 87(2)(b) was approached about a block away on Syringa Place and Beech Avenue.

Besides casing the location, making furtive movements, and walking away at the sight of the officers, there was nothing else about § 87(2)(b) to suspect him of criminal activity. PO Har suspected that § 87(2)(b) was casing the area in order to return later to burglarize the location. There have been incidents throughout the year where construction sites were burglarized for the copper pipes. PO Har has been patrolling this area for about six years. However, PO Har has never investigated any cases of this nature and he was not informed of any complaint reports about burglaries or robberies in the area on the day of the incident.

PO Har exited the van first while PO Yam and PO Ragoo exited five seconds after him. PO Har was the only officer to interact with § 87(2)(b). PO Har approached § 87(2)(b) and asked to speak to him. PO Har could not recall if PO Yam or PO Ragoo was present at this time. PO Yam did not direct PO Har to ask § 87(2)(b) any questions. § 87(2)(b) stopped and PO Har asked him what he was doing and why he was in the area. § 87(2)(b) stated that he was walking home and that he lived in the area. PO Har then asked why he was looking into the construction site and § 87(2)(b) stated that he did not know that something was being constructed there. At this point, § 87(2)(b) was free to leave. PO Har explained to § 87(2)(b) that there are high incidents of robberies and burglaries in that particular area and § 87(2)(b) stated that he lived in the area and was not aware of this. PO Har also explained to § 87(2)(b) that he was approached because of his casing the construction site, his furtive movements, and walking off upon observation of the officers.

At some point during this interaction, PO Har asked for § 87(2)(b)'s ID. PO Har could not recall exactly when he asked for § 87(2)(b)'s ID. § 87(2)(b) did not comply immediately and asked PO Har why he wanted his ID. § 87(2)(b) provided his ID to PO Har, who then prepared a stop and frisk report. § 87(2)(b) then attempted to snatch his ID away from PO Har, who handed it back to § 87(2)(b). § 87(2)(b) was verbally aggressive from the moment he was approached and became louder by continuously asking why he was stopped. PO Har explained to § 87(2)(b) the reason he was stopped several times and § 87(2)(b) was not satisfied. At this time, PO Yam and PO Ragoo were inside of the police van. PO Har was shown a copy of the stop and frisk report and he confirmed that § 87(2)(b) was the person on the report.

§ 87(2)(b) asked PO Har for his name and shield number, and PO Har provided that to § 87(2)(b) who subsequently walked away. PO Har did not recall if § 87(2)(b) asked PO Yam or PO Ragoo for their names and shield numbers or if they provided that information to § 87(2)(b).

#### **Subject Officer: PO KEVIN YAM**

- § 87(2)(b) -old Asian male, 5'9", 170 pounds, with black hair and brown eyes.
- He was assigned to conditions with PO Wing Har and PO Jason Ragoo. On December 13, 2011, he worked from 5:30 p.m., until 2:05a.m., the following day. They were all in uniform and drove marked vehicle number # 5997.

#### **Memo Book**

PO Yam did not have any memo book entries regarding this incident (encl. 8A-C)

#### **CCRB Statement**

PO Yam was interviewed at the CCRB on July 31, 2012 (encl. 8A-F). § 87(2)(g)

All three officers observed § 87(2)(b) walking down the street, stopping and taking momentary glances into nearby houses. PO Yam did not recall what street § 87(2)(b) was walking on, but that particular area in Brooklyn was prone to burglaries, vehicle larceny and

robberies. After thirty seconds of observing § 87(2)(b) all three officers decided to conduct the stop.

PO Yam was not the operator of the van and could not recall who was. After § 87(2)(b) was approached, PO Har and PO Ragoo asked him some questions. PO Yam did not recall the questions that were asked. However, PO Yam was sure the questions were in regards to what § 87(2)(b) was doing in the area and where he was going. PO Yam did not recall § 87(2)(b)'s responses to such questions.

Besides the area and § 87(2)(b) casing the location, nothing else about § 87(2)(b) led PO Yam to suspect him of anything. PO Yam considered that § 87(2)(b)'s casing of the location was furtive movements. PO Yam could not articulate what, if any, furtive movements § 87(2)(b) made.

§ 87(2)(b) did ask for PO Yam's shield number, which he provided. PO Yam did not recall whether § 87(2)(b) asked the other officers for their shield numbers. Based upon § 87(2)(b)'s responses to their questions, he was free to leave. PO Yam did not recall what § 87(2)(b)'s responses were. PO Yam, PO Ragoo and PO Har entered their marked van and left the scene. PO Yam agreed with the stop and frisk report that § 87(2)(b) came across as combative and that the interaction lasted two minutes.

#### **Subject Officer: PO JASON RAGOO**

- § 87(2)(b) -old Indian male, 5'6", 200 pounds, with black hair and brown eyes.
- He was assigned to conditions with PO Har and PO Yam. On December 13, 2011, he worked from 5:30 p.m., until 2:05 a.m., the following day. All three officers were in uniform and drove marked vehicle number #5997.

#### **Memo Book**

PO Ragoo did not have any memo book entries regarding the incident (encl. 9A-C).

#### **CCRB Statement**

PO Ragoo was interviewed at the CCRB on July 31, 2012 (encl. 9D-F). PO Ragoo did not recall the incident.

#### **NYPD Documents**

#### **Stop and Frisk Report**

The stop and frisk report that PO Har prepared confirmed that § 87(2)(b) was observed for one minute before he was approached. The report also confirmed that § 87(2)(b) asked for the officers' badge numbers and that "Actions indicative of casing a victim or location" and "Furtive movements" were the factors that lead to § 87(2)(b)'s stop (encl. 11A-B).

#### **Automated Roll Call**

The 109<sup>th</sup> Precinct's ARCS confirmed that PO Har, PO Ragoo and PO Yam were all working and assigned to the same vehicle # 5997 (encl. 13A-B).

#### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of September 11, 2012, more than five months after the 90-day filing deadline, with regard to this incident (encl. 15).

### **Civilian's Criminal History**

- As of September 13, 2012, Office of Court Administration records reveal no criminal convictions for § 87(2)(b)

### **Civilian's CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 5).

### **Subject Officer's CCRB History**

- PO Har has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 2).
- PO Ragoo has been a member of the service for seven years and there are no substantiated CCRB allegations against him (encl. 4A-B).
- PO Yam has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 3).

## **Conclusion**

### **Allegations Not Pleaded**

- § 87(2)(g)
- § 87(2)(b) confirmed that he reached for his ID which was in PO Har's memo book and PO Ragoo responded by grabbing § 87(2)(b)'s arm. The stop and frisk report notes hands on suspect in self-defense. § 87(2)(g)

### **Identification of Subject Officers**

PO Har and PO Yam acknowledged interacting with § 87(2)(b). Although PO Ragoo had no recollection of the events related to this incident, he was placed at the scene on the date of the incident by his partners.

### **Investigative Findings and Recommendations:**

#### **Allegation A- Abuse of Authority: PO Wing Har questioned § 87(2)(b)**

It is undisputed that § 87(2)(b) provided his ID to PO Har when he was asked. In dispute, is whether PO Har had a founded suspicion to question § 87(2)(b). § 87(2)(b) alleged that he was walking to his vehicle when he was approached by PO Har, PO Ragoo and PO Yam and then questioned by PO Har. PO Har stated that he observed § 87(2)(b) look through a gap at a construction site that was boarded up with plywood. PO Har also observed § 87(2)(b) making furtive moments while looking through the gap. PO Yam stated he observed § 87(2)(b) walking down the street, stopping and taking momentary glances into nearby houses. However, this was not corroborated by PO Har's statement. PO Ragoo did not recall anything about the incident.

Police officers may question an individual based on common-law right of inquiry if there exists founded suspicion that criminality is afoot. People v. Debour, 40 N.Y.2d 210 (1979) (encl. 1A-J). In addition, a request for information involves basic, nonthreatening questions regarding, for instance, identity, address or destination. These questions need be supported only by an objective credible reason not necessarily indicative of criminality. Once the officer asks more

pointed questions that would lead the person approached reasonably to believe that he or she is suspected of some wrongdoing and is the focus of the officer's investigation, the officer is no longer merely seeking information. This has become a common-law inquiry that must be supported by a founded suspicion that criminality is afoot. People v. Hollman 79 N.Y.2d 181 (1992) (encl. 1L-V)

§ 87(2)(g)

§ 87(2)(g)

**Allegation B- Abuse of Authority: PO Kevin Yam refused to provide his shield number to**

§ 87(2)(b)

**Allegation C- Abuse of Authority: PO Jason Ragoo refused to provide his shield number to**

§ 87(2)(b)

§ 87(2)(b) alleged that PO Yam and PO Ragoo ignored his request for their shield numbers. PO Yam stated that § 87(2)(b) asked him for his shield number, which he provided. PO Har did not recall whether § 87(2)(b) asked PO Yam and PO Ragoo for their shield numbers. Although the stop and frisk report confirmed that § 87(2)(b) asked for a shield number, it cannot be established which officers § 87(2)(b) asked and what their responses were.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date